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104TH CONGRESS
2D SESSION

H. R. 4110

To amend the Internal Revenue Code of 1986 to require that group health plans and insurers offer access to coverage for children and to assist families in the purchase of such coverage.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 1996

Mr. STARK introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to require that group health plans and insurers offer access to coverage for children and to assist families in the purchase of such coverage.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children Health Insurance Act of 1996".

SEC. 2. HEALTH INSURANCE AVAILABILITY FOR CHILDREN.

(a) IN GENERAL.—The Internal Revenue Code of 1986 (as amended by the Health Insurance Portability

and Accountability Act of 1996) is amended by adding at the end the following:

"Subtitle L—Health Insurance Availability for Children

"CHAPTER 101—HEALTH INSURANCE AVAILABILITY FOR CHILDREN

"Sec. 9901. Excise tax on failure to meet requirement of access to coverage.
"Sec. 9902. Requirement of access to coverage.
"Sec. 9903. Definitions.

"SEC. 9901. EXCISE TAX ON FAILURE TO MEET REQUIREMENT OF ACCESS TO COVERAGE.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of—

"(1) a group health plan to meet the coverage requirements of section 9902(a); and

"(2) an insurer that offers health insurance coverage (other than to a group health plan subject to paragraph (1)) to meet the requirements of section 9902(b).

"(b) AMOUNT OF TAX.—

"(1) GROUP HEALTH PLAN.—

"(A) IN GENERAL.—The amount of tax imposed by subsection (a)(1) on any failure with respect to a participant or beneficiary of a group health plan shall be 25 percent of each

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premium received by the group health plan for the plan year in which such failure occurs.

"(B) SELF-INSURED PLANS.—In the case that the group health plan is self-insured, the cost to the plan of the coverage of participants and beneficiaries shall be treated as the premium received for the purposes of subparagraph (A).

"(2) INSURER OFFERING INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amount of tax imposed by subsection (a)(2) on any failure of an insurer with respect to an individual described in paragraph (1) or (2) of section 9902(b) shall be 25 percent of the total amount of the premiums paid to the insurer for such coverage for the plan year in which such failure occurs.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) TAX NOT TO APPLY TO CERTAIN PLANS.—This section shall not apply to—

"(1) any governmental plan (within the meaning of section 414(d)), or

"(2) any church plan (within the meaning of section 414(e)).

"(e) LIABILITY FOR TAX.—The following shall be responsible for the tax imposed by subsection (a):

"(1) In the case of the tax imposed by subsection (a)(1) on a group health plan, the plan.

"(2) In the case of the tax imposed by subsection (a)(2) on an insurer offering health insurance coverage, the insurer.

"SEC. 9902. REQUIREMENT OF ACCESS TO COVERAGE.

"(a) GROUP HEALTH PLANS.—

"(1) IN GENERAL.—Each group health plan that provides coverage to any participant (or beneficiary) must offer qualifying coverage for each qualifying young dependent of an individual who is a participant or beneficiary under the plan.

"(2) TIMING OF OFFER.—The offer under paragraph (1) shall be made at the time a person first becomes a qualifying young dependent and at least annually thereafter.

"(b) HEALTH INSURANCE COVERAGE.—Each insurer that offers health insurance coverage in the individual market must offer qualifying coverage for each individual who is under 21 years of age, residing in the United States, and a citizen or national of the United States (or alien permanently residing in the United States under color of law).

"(c) QUALIFYING COVERAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying coverage' means coverage of health care benefits that provides for at least the following benefits, without any limitation based on a pre-existing condition with respect to such benefits and without any waiting period for coverage with respect to such benefits:

"(A) MEDICARE BENEFITS.—Benefits provided under parts A and B of title XVIII of the Social Security Act, or benefits determined to be actuarially equivalent to (or greater than) such benefits; except that in no case shall the coinsurance attributable to benefits under part B of such title exceed (with respect to provision of an item or service) the lesser of $10 or 10 percent of the recognized payment amount with respect to such item or service (determined without regard to cost-sharing).

"(B) WELL CHILD CARE BENEFITS.—

"(i) IN GENERAL.—Payment for the following items and services, without the application of deductibles, coinsurance, and copayments:

"(I) Newborn and well-baby care, including normal newborn care and

pediatrician services for high-risk deliveries.

"(II) Well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care.

"(ii) PERIODICITY SCHEDULE.—The Secretary, in consultation with the American Academy of Pediatrics, shall establish a schedule of periodicity for services described in clause (i) which reflects the general, appropriate frequency with which such services should be provided to health children.

"(2) MANAGED CARE PERMITTED.—Nothing in this section shall be construed as limiting the providers through whom the benefits described in paragraph (1) may be provided so long as there is reasonable access to such benefits.

"(d) QUALIFYING YOUNG DEPENDENT.—For purposes of this section, the term 'qualifying young dependent' means an individual who is under 21 years of age, residing in the United States, is a citizen or national of the United States (or alien permanently residing in the

United States under color of law), and a dependent (as defined in section 152) of the individual.

"SEC. 9903. DEFINITIONS.

"In this chapter—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 5000(b)(1), but does not include such a plan that has medical benefits that only consist of coverage described in paragraph (2)(B).

"(2) HEALTH INSURANCE COVERAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

"(B) EXCEPTION.—Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

"(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

"(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

"(iii) Coverage issued as a supplement to liability insurance.

"(iv) Liability insurance, including general liability insurance and automobile liability insurance.

"(v) Workers' compensation or similar insurance.

"(vi) Automobile medical-payment insurance.

"(vii) Coverage for a specified disease or illness.

"(viii) Hospital or fixed indemnity insurance.

"(ix) Short-term limited duration insurance.

"(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations prescribed under this title.

"(3) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' means—

"(A) a federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

"(B) an organization recognized under State law as a health maintenance organization, or

"(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if it is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974).

"(4) INSURER.—The term 'insurer' means an insurance company, insurance service, or insurance

organization (including a health maintenance organization) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A) of the Employee Retirement Income Security Act of 1974).

"(5) INDIVIDUAL MARKET.—The term 'individual market' means the market for health insurance coverage offered to individuals and not to employers or in connection with a group health plan and does not include the market for such coverage issued only by an insurer that makes such coverage available only on the basis of affiliation with an association.

"(6) INCORPORATION OF CERTAIN DEFINITIONS.—The terms 'beneficiary' and 'participant' have the meanings given such terms in section 3 of the Employee Retirement Income Security Act of 1974.".

(b) CLERICAL AMENDMENT.—The table of contents for the Internal Revenue Code of 1986 is amended by adding after the item relating to subtitle K the following new item:

"Subtitle L. Health Insurance Availability for Children."

(c) EFFECTIVE DATE.—The requirement of section 9902 of the Internal Revenue Code of 1986 (as added by subsection (a) of this section) shall take effect on January

1, 1998, and shall apply to coverage offered on or after such date regardless of whether the plan year began before such date.

SEC. 3. REFUNDABLE TAX CREDIT FOR PURCHASE OF HEALTH COVERAGE FOR CHILDREN.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. PURCHASE OF HEALTH COVERAGE FOR CHILDREN.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 80 percent of the qualified health premiums paid in the taxable year by the taxpayer.

"(b) APPLICATION OF CREDIT AGAINST TAX LIABILITY.—

"(1) IN GENERAL.—The credit allowable under subsection (a) shall be applied against tax liability at the rate of $0.50 of credit for each $1 of tax liability.

"(2) TAX LIABILITY.—For the purposes of paragraph (1), the term 'tax liability' means the excess (if any) of—

"(A) the sum of—

"(i) the tax imposed by this chapter for the taxable year (reduced by the credits allowable against such tax other than the credits allowable under this subpart), and

"(ii) the taxpayer's social security taxes for such taxable year, over

"(B) the credit allowed for the taxable year under section 32.

"(3) SOCIAL SECURITY TAXES.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The term 'social security taxes' means, with respect to any taxpayer for any taxable year—

"(i) the amount of the taxes imposed by sections 3101 and 3201(a) on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(ii) one-half of the amount of the taxes imposed by section 1401 on the self-

employment income of the taxpayer for the taxable year, and

"(iii) one-half of the amount of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

"(B) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term 'social security taxes' shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(C) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in subparagraph (A)(i) shall be treated as taxes referred to in such subparagraph.

"(c) DEFINITIONS.—For the purposes of this section—

"(1) QUALIFIED HEALTH PREMIUM.—The term 'qualified health premium' means the amount paid for health coverage of a qualifying young dependent.

"(2) HEALTH COVERAGE.—The term 'health coverage' means health insurance coverage (as defined by section 9902(b)) that includes qualifying coverage (as defined by section 9902(c)).

"(3) QUALIFYING YOUNG DEPENDENT.—The term 'qualifying young dependent' has the meaning given such term by section 9902(d).".

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following new items:

"Sec. 35. Purchase of health coverage for children.
"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

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